January 8, 2003

FACT SHEET
FOR
STATE WATER RESOURCES CONTROL BOARD (SWRCB)
WATER QUALITY ORDER ~~02-XX-DWQ~~03-XX-DWQ
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT NO. _____

WASTE DISCHARGE REQUIREMENTS (WDRS)
FOR
STORM WATER DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (GENERAL PERMIT)

BACKGROUND

In 1972, the Federal Water Pollution Control Act (also referred to as the Clean Water Act [CWA]) was amended to provide that the discharge of pollutants to waters of the United States from any point source is unlawful unless the discharge is in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. The 1987 amendments to the CWA added §402(p), which established a framework for regulating storm water discharges under the NPDES Program. Subsequently, in 1990, the United States Environmental Protection Agency (U.S. EPA) promulgated regulations for permitting storm water discharges from industrial sites (including construction sites that disturb five acres or more) and from municipal separate storm sewer systems (MS4s) serving a population of 100,000 people or more. These regulations, known as the Phase I regulations, require operators of medium and large MS4s to obtain storm water permits. On December 8, 1999, U.S. EPA promulgated regulations, known as Phase II, requiring permits for storm water discharges from Small MS4s and from construction sites disturbing between 1 and 5 acres of land. This General Permit regulates storm water discharges from Small MS4s.

An "MS4" is~~defined as~~ a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) designed or used for collecting or conveying storm water; (ii) which is not a combined sewer; and (iii) which is not part of a Publicly Owned Treatment Works ~~(POTW) as defined at Title 40 of the~~(POTW). [See, Title 40, Code of Federal Regulations ~~(CFR) §122.2.~~(40 CFR) §122.26(b)(8).]

A "Small MS4" is ~~defined as an MS4 that is not a permitted MS4 under the Phase I regulations. This definition of a Small MS4 applies to MS4s operated within cities and counties as well as governmental facilities that have a system of storm sewers.~~an MS4 that is not permitted under the municipal Phase I regulations, and which is "owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or

pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity…." (40 CFR §122.26(b)(16).) Small MS4s *include systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares, but do not include separate storm sewers in very discrete areas, such as individual buildings*. This permit refers to MS4s that operate throughout a community as "traditional MS4s" and MS4s that are operated as a separate campus or facility as "non-traditional MS4s".

Federal regulations allow two permitting options for storm water discharges (individual permits and general permits). The SWRCB elected to adopt a statewide general permit for Small MS4s in order to efficiently regulate numerous storm water discharges under a single permit. In certain situations a storm water discharge may be more appropriately and effectively regulated by an individual permit, a region-specific general permit, or by inclusion in an existing Phase I permit. In these situations, the Regional Water Quality Control Board (RWQCB) Executive Officer (EO) will direct the Small MS4 operator to submit the appropriate application, in lieu of a Notice of Intent to comply with the terms of this General Permit. In these situations, the individual or regional permits will govern, rather than this General Permit.

ENTITIES SUBJECT TO THIS PERMIT

This General Permit regulates discharges of storm water from "regulated Small MS4s." A "regulated Small MS4" is defined as a Small MS4 that discharges to a water of the U.S. or to another MS4 regulated by an NPDES ~~permit and~~permit, and which is designated in one of the following ways:

1. Automatically designated by U.S. EPA pursuant to 40 CFR §122.32(a)(1) because it is located within an urbanized area defined by the Bureau of the Census (see Attachment 1); or

2. ~~Individually~~Traditional Small MS4s that serve cities, counties and unincorporated areas that are designated by the SWRCB or RWQCB after consideration of the following factors:

    a. High population density – High population density means an area with greater than 1,000 residents per square mile. Also to be considered in this definition is a high density created by a non-residential population, such as tourists or commuters.

    b. High growth or growth potential –If an area grew by more than 25% between 1990 and 2000, it is a high growth area. If an area anticipates a growth rate of more than 25% over a 10-year period ending prior to the end of the first permit term, it has high growth potential.

~~c.~~

    c. Significant contributor of pollutants to an interconnected permitted MS4 – A small~~MS4~~ is interconnected with a separately permitted MS4 ~~if~~of storm water that has entered the Small MS4 is allowed to flow directly into a permitted MS4. In

general, if the Small MS4 discharges more than 10% of its storm water to the permitted MS4, or its discharge makes up more than 10% of the other permitted MS4s total storm water volume, it is a significant contributor of pollutants to the permitted MS4. In specific cases, the MS4s involved or third parties may show that the 10% threshold is inappropriate for the MS4 in question.

~~d.~~

d. Discharge to sensitive water bodies – Sensitive water bodies are receiving waters,~~including groundwater,~~ which are a priority to protect. They include the following:

- those listed as providing or known to provide habitat for threatened or endangered species;
- those used for recreation that are subject to beach closings or health warnings; or
- those listed as impaired pursuant to CWA §303(d) due to constituents of concern in urban runoff (these include BOD, sediment, pathogens, petroleum hydrocarbons, heavy metals, floatables, polycyclic aromatic hydrocarbons (PAHs), trash, and other constituents that are found in the MS4 discharge).

Additional criteria to qualify as a sensitive water body may exist and may be determined by the SWRCB or RWQCB on a case-by-case basis~~ along with the MS4's designation justification~~.

e. Significant contributor of pollutants to waters of the United States –Specific conditions presented by the MS4 may lead to significant pollutant loading to waters of the U.S. that are otherwise unregulated or inadequately regulated. An example of such a condition may be the presence of a large transportation industry.

These factors are to be considered when evaluating whether a Small MS4 should be ~~required to implement a storm water program that meets the provisions of~~regulated pursuant to this General Permit. An MS4 and the population that it serves need not meet all of the factors to be designated. The State Board designated a number of Small MS4s according to these criteria. (See, Attachment 2.)

3. Non-traditional MS4s that are similar to traditional MS4s in municipalities, and are located within or discharge to a storm water permitted MS4 or which are designated by the State Board or a Regional Board. In general, these are storm water systems serving public campuses (including universities, community colleges, primary schools, and other publicly owned learning institutions with campuses), military bases, and prison and hospital complexes within or adjacent to other regulated MS4s. The State Board designated a number of these non-traditional MS4s. (See, Attachment 3.)

~~These factors were chosen to target MS4s that in general have~~The criteria selected to designate Small MS4s to be regulated are based on the potential to impact water quality due to conditions influencing discharges into their system or due to where they discharge. Some of the definitions provide "cut-off numbers." Although there is no regulatory standard ~~as to~~that mandates which numbers to use, dividing lines must be established in order to effectively use them as criteria.

Specifically, the high growth factor uses 25-% growth over ten years. The average growth (based on county data from the Census) in California between 1990 and 2000 was 15.8%. The standard deviation was 9.9. Growth rates outside one standard deviation are more than 25.7%. The standard deviation is generally an indication of the spread of data. In defining the high growth factor, the standard deviation was used because it sets the limits within which most areas of California fall. County data was used because it was consistently available whereas 1990 populations for several of the cities and places were not readily available. Additionally, county data gives a broader picture of the growth dynamics in California. Because the data is not normally distributed, 68% of the data points do not necessarily fall within one standard deviation of the mean. It does, however,~~it does~~ provide a number in which to compare city and place growth rates to the average growth rate of California. The number was rounded to 25% for ease of application and with the understanding that it is an approximation.

The significant contributor of pollutants to an interconnected permitted MS4 definition uses a volume value of 10%, with the assumption that storm water contains pollutants. This is meant to capture flows that may affect water quality or the permit compliance status of another MS4, but exclude incidental flows between communities.

~~Attachment 2 lists the cities and counties that are regulated Small MS4s in accordance with the above listed criteria as identified by the SWRCB and RWQCB at the time of permit adoption.~~

~~The definition of a Small MS4 provided at §122.26(b)(16) includes systems of storm water conveyances "owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity…~~*~~This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. This term does not include separate storm sewers in very discrete areas, such as individual buildings*~~. (emphasis added)"~~

~~There is a wide array of governmental facilities with varying storm water conveyance structures. Some of the structures clearly form a system of conveyances similar to those in municipalities while others do not. In general, storm water structures serving public campuses (including universities, community colleges, primary schools, and other publicly owned learning institutions with campuses), military bases, and prison and hospital complexes are Small MS4s that are similar to traditional storm water systems that serve cities and counties. Those Small MS4s within or adjacent to a regulated Small, medium, or large MS4s are themselves regulated Small MS4s and are subject to an MS4 storm water permit.~~

~~There may be instances where a governmental facility does not have a storm sewer system that is similar to a traditional MS4 but is a significant source of pollutants and may be designated as a regulated Small MS4 by §122.26(a)(v). In these instances, the owner of the MS4 will be notified by the SWRCB or RWQCB and have 180 days from notification to submit a Notice of Intent to comply withthis General Permit (or an application for an alternative permit).~~

~~While discharges from Small MS4s serving a city or county within the permit area of a permitted city or county will be regulated under the respective city or county permit, discharges from Small MS4s serving~~Discharges from non-traditional Small MS4s operated by other governmental ~~facilities (i.e.~~entities (e.g., facilities owned and operated by the federal or state ~~government) do~~government or special district) may not fall under the jurisdiction of the city or county and therefore may need to be ~~permitted~~regulated separately. ~~Additionally, similar~~Similar facilities operated privately are not subject to this ~~permit~~General Permit because, by definition, only public entities operate Small MS4s~~, and the city or county has legal authority over the private entity~~.

APPLICATION REQUIREMENTS

Regulated Small MS4s automatically designated because they are within an urbanized area (Attachment 1) must submit to the appropriate RWQCB by March 10, 2003, a Notice of Intent to comply with the terms of this General Permit (NOI) (Attachment 6), a Storm Water Management Program (SWMP) and an appropriate fee.

Regulated Small MS4s that are traditional MS4s designated by the SWCRB or RWQCB, including those designated in Attachment 2, must submit to the appropriate RWQCB, within 180 days of notification of designation, an NOI (Attachment 6) to comply with the terms of this General Permit, a SWMP, and an appropriate fee.

Regulated Small MS4s that are non-traditional MS4s designated by the SWRCB or RWQCB, including those designated in Attachment 3 must submit to the appropriate RWQCB, within 365 days of notification of designation, an NOI (Attachment 6) to comply with the terms of this General Permit, a SWMP, and an appropriate fee (if applicable).

Regulated Small MS4s~~within urbanized areas are automatically designated and must submit an NOI, SWMP, and fee by March 10, 2003. Those facilities in areas designated by the state (see Attachment 2 of this General Permit) have 180 days from notification by the SWRCB or RWQCB to submit an NOI, SWMP, and fee. The governmental facilities identified at the time of permit adoption as having a regulated Small MS4 are listed in Attachment 3 of this General Permit. The last column of Attachment 3 indicates whether the facility is automatically designated or designated by the state.~~

~~NOTIFICATION REQUIREMENTS~~

~~As required by 40 CFR §122.33(c)(1) and the Porter-Cologne Water Quality Control Act (Porter-Cologne) §13376, regulated Small MS4s automatically designated because they are within an urbanized area must submit to the appropriate RWQCB by March 10, 2003, a Notice of Intent (NOI) (Attachment 5) to comply with the terms of this General Permit, a Storm Water Management Program (SWMP) and a fee.~~

~~As required by 40 CFR §122.33(c)(2) and Porter-Cologne §13376 regulated Small MS4s designated by the SWCRB or RWQCB must submit to the appropriate RWQCB within 180 days of designation notification or March 10, 2003, whichever is later, an NOI (Attachment 5) to comply with the terms of this General Permit, a draft SWMP, and a fee.~~

~~Regulated Small MS4s~~ relying entirely on Separate Implementing Entities that are also permitted to implement their entire storm water programs are not required to submit a SWMP, but must~~, however,~~ submit the NOI and ~~fee.~~an appropriate fee (if applicable).

Regulated Small MS4s that fail to obtain coverage under this General Permit will be in violation of the CWA and the Porter-Cologne Water Quality Control Act.

A regulated Small MS4 is considered to be permitted once the NOI and SWMP has been received by the RWQCB. The MS4 shall~~then~~ begin implementing its ~~SWMP, however, the~~SWMP immediately, but full implementation is not required until the end of the term of this General Permit. The RWQCB EO may require refinement upon review of the SWMP if it appears to be an inadequate tool to achieve compliance with this General Permit. The Permittee may also revise its own SWMP, but must propose such changes to the RWQCB.

Attachment ~~6~~7 lists RWQCB contact information for questions and submittals.

GENERAL PERMIT ~~CONDITIONS~~REQUIREMENTS

Prohibitions

This General Permit effectively prohibits the discharge of materials other than storm water that are not "authorized non-storm water discharges" (see General Permit ~~§E.2.c)~~§D.2.c) or authorized by a separate NPDES permit. This General Permit also incorporates discharge prohibitions contained in ~~statewide and regional water quality control~~Statewide Water Quality Control ~~plans~~Plans and Regional Water Quality Control Plans (basin plans).

Effluent Limitations

Permittees must implement Best Management Practices (BMPs) that reduce pollutants in storm water runoff to the technology-based standard of Maximum Extent Practicable (MEP). In

accordance with 40 CFR §122.44(k)(2), the inclusion of BMPs in lieu of numeric effluent limitations is appropriate in storm water permits.

Discharges shall not contain reportable quantities of hazardous substance as established at 40 CFR §117.3 or 40 CFR §302.4.

~~PERMIT REQUIREMENTS~~Preparation of the Storm Water Management Plan (SWMP)

This General Permit requires regulated Small MS4s to:

1. Develop and implement a SWMP that describes BMPs, measurable goals, and timetables for implementation in the following six program areas (Minimum Control Measures):

   Public Education

   The Permittee must educate the public in its permitted jurisdiction about the importance of the storm water program and the public's role in the program.

   Public Participation

   The Permittee must comply with all state and local notice requirements when implementing a public involvement/participation program.

   Illicit Discharge Detection and Elimination

   The Permittee must adopt and enforce ordinances or take equivalent measures that prohibit illicit discharges. The Permittee must also implement a program to detect illicit discharges.

   Construction Site Storm Water Runoff Control

   The Permittee must develop a program to control the discharge of pollutants from construction sites greater than or equal to one acre in size within its permitted jurisdiction. The program must include inspections of construction sites and enforcement actions against violators.

   Post Construction Storm Water Management

   The Permittee must require long-term post-construction BMPs that protect water quality and control runoff flow, to be incorporated into development and significant redevelopment projects.

   It is not expected that implementation of this control measure will require redesign of projects under active construction at the time this Permit is adopted or for school facilities that have been submitted to the Department of General Services, Division of the State Architect before adoption of the permit, and which receive final approval from the Department of Education by December 31, 2004. The SWMP

must, however, specify how the control measure will be implemented over the term of this Permit.

Pollution Prevention/Good Housekeeping for Municipal Operations

The Permittee must examine its own activities and develop a program to prevent the discharge of pollutants from these activities. At a minimum, the program must educate staff on pollution prevention, and minimize pollutant sources.

2. Reduce its discharge of pollutants to the MEP.

3. ~~3.~~ Annually report on the progress of SWMP implementation.

Development and Implementation of the Storm Water Management Program (SWMP)

The SWMP must describe how pollutants in storm water runoff will be controlled and describe the BMPs that address the six Minimum Control Measures ~~that will do this~~. Each BMP must have accompanying measurable goals that will be achieved during the~~five-year~~ permit term as a means of determining program compliance and accomplishments, and as an indicator of potential program effectiveness. The measurable goals should be definable tasks such as number of outreach presentations to make, number of radio spots to purchase, or percentage of pollutant loading to reduce (other examples of measurable goals can be found on U.S. EPA's web-site at ~~site at http://www.epa.gov/npdes/stormwater/measurablegoals/index.htm).~~http://cfpub.epa.gov/npdes/stormwater/measurablegoals/index.cfm). This approach provides the flexibility to target an MS4's problem areas while working within the existing organization.

The Permittee has ~~the five-year permit term~~until the expiration of this permit to fully implement its program, but it is expected that progress be made throughout the permit term. It is not anticipated that the SWMP submitted with the NOI will be fully developed and implemented. Rather, in many instances, what is submitted with the NOI will be a plan to develop and fully implement the SWMP. For example, it may be proposed that a final SWMP will be submitted at the end of the first year, an ordinance prohibiting non-storm water discharges be adopted by the end of the ~~first~~second year; a survey of non-storm water discharges throughout the city be completed by the end of the second year; a brochure targeting the restaurant community regarding proper practices to eliminate non-storm water discharges be developed or obtained by the end of the ~~third~~fourth year; and the brochure be distributed to 25% of the restaurants within the city during health department inspections by the end of the fifth ~~year.~~ year. (This example mentions only one activity each year. In fact, numerous activities will occur throughout the permit term that ensure that a SWMP addressing all 6 Minimum Control Measures is implemented by the end of the permit term.)

The main goal of this permit is to ~~require the development and implementation of a program that takes an interdisciplinary approach to storm water.~~protect water quality from the impacts of storm water runoff from Small MS4s. The intent is that~~through such an approach,~~ storm water quality impacts will be considered in all aspects of a municipality's activities and that multiple

departments within the municipality will work together to implement storm water BMPs. For instance, the planning department may work with the public works department when considering projects and their potential storm water impacts. Also, the health department can work with public works in a complementary manner to spread a consistent message about illicit discharges.

Many of the activities that a municipality already does can be recognized as a benefit to storm water or can be modified to add a storm water quality twist. A critical element of SWMP development is an assessment of activities already being conducted. For example, many communities already have a household hazardous waste program, which can be assumed to reduce illicit discharges to the MS4. Likewise, they examine potential flooding impacts of new development. This process can be modified to also examine water quality impacts as well as quantity.

Similarly, the Minimum Control Measures emphasize working with the public to prevent pollution during their everyday activities as well as to gain support for program funding. The MS4 has the flexibility to target specific segments of its residential or employee population in ways that are most appropriate for that particular segment. Taken together, the suite of public education approaches an MS4 takes can create a robust multimedia campaign that has a single message, which is threaded throughout the community through implementation of BMPs in the six program areas.

~~This is exemplified by emphasis on post-construction measures. Post-construction controls target the problems associated with increasing the impervious area that usually accompanies development. By considering water quality during the design phase of a project, source control BMPs and treatment BMPs can be incorporated into projects more efficiently to combat the problems of polluted runoff. Along with construction site controls, and public education so the public will do its part, storm water is considered (and its pollutant impacts reduced) during design, construction, and long-term use of the project.~~

For links to information on how to implement each of the Minimum Control Measures, including sample ordinances that address the respective Minimum Control Measures, please see SWRCB's internet site at http://www.swrcb.ca.gov/stormwtr/municipal.html. Additionally, in accordance with 40 CFR §122.34(d)(2) the SWRCB provides EPA's menu of BMPs to consider when developing a SWMP. This menu is available on U.S. EPA's internet site at http://cfpub1.epa.gov/npdes/stormwater/swphase2.cfm?program_id=6. The menu provides examples of BMPs and associated measurable ~~goals.~~
goals, however, other BMPs and measurable goals may be used.

Maximum Extent Practicable (MEP)

MEP is the technology-based standard established by Congress in CWA §402(p)(3)(B)(iii) that municipal dischargers of storm water must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve. MEP is generally a result of emphasizing pollution prevention and source control BMPs as the first lines of defense in combination with treatment methods where appropriate serving as additional lines of defense. The MEP approach

is an ever evolving, flexible and advancing concept, which considers technical and economic feasibility. As knowledge about controlling urban runoff continues to evolve, so does that which constitutes MEP. The individual and collective activities elucidated in the MS4's SWMP become its proposal for reducing or eliminating pollutants in storm water to the MEP. The way in which MEP is met may vary between communities.

The MEP standard applies to all regulated MS4s, including those in Phase I and Small MS4s regulated by this General Permit. Consistent with EPA guidance, the MEP standard in California is applied so that a first-round storm water permit requires BMPs that will be expanded or better-tailored in subsequent permits. In choosing BMPs, the major focus is on technical feasibility, but cost, effectiveness, and public acceptance are also relevant. If a permittee chooses only the most inexpensive BMPs, it is likely that MEP has not been met. If a permittee employs all applicable BMPs except those that are not technically feasible in the locality, or whose cost exceeds any benefit to be derived, it would meet the MEP standard. MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs are not technically feasible, or the cost is prohibitive. (See, State Board Order No. 2000-11.)

Generally, in order to meet MEP, communities that have greater water quality impacts must put forth a greater level of effort. Alternatively, for similar water quality conditions, communities should put forth an equivalent level of effort. However, because larger communities have greater resources (both financial resources as well as existing related programs that can help in implementing storm water quality programs), it may appear that they have more robust storm water programs. Additionally, because storm water programs are ~~locally-driven~~locally driven and local conditions vary, some BMPs may be more effective in one community than in another. A community that has a high growth rate would derive more benefit on focusing on construction and post-construction programs ~~(though a program is required by all permittees) than communities that are essentially built-out.~~than on an illicit connection program because illicit connections are more prevalent in older communities.

Many Phase I MS4s have been permitted under storm water regulations for more than ten years and have had that time to develop programs intended to reduce pollutants in their storm water discharge to the MEP. ~~We understand~~It is understood that storm water quality programs and regulations are new to the entities that will be regulated under this General ~~Permit and therefore anticipate~~Permit. Therefore, it is anticipated that this permit term will serve as a "ramping-up" period ~~during this permit term and do not intend to use standards established for Phase I communities as the standards for Phase H~~and that programs implemented by Phase II communities will not necessarily conform with programs implemented by Phase I communities. Despite this understanding, however, many of the lessons learned and information developed by Phase I communities is available to smaller communities as a guide and may be used by Phase II communities.

Supplemental Provisions for Larger and Fast-Growing Regulated Small MS4s

By the expiration date of this permit, traditional and non-traditional Small MS4s located in areas with a population of more than 50,000 people or that are subject to high growth must require specific design standards as part of their post-construction program (as outlined in Attachment 4 of this General Permit), and they must comply with water quality standards through implementing better-tailored BMPs in an iterative manner. These more stringent requirements are applied to communities that are larger, and therefore capable of a more extensive storm water program, and to communities that are fast growing, and therefore may have greater impacts on storm water runoff associated with construction and the loss of pervious lands.

Reporting Requirements

The Permittee must track its program to ensure BMP effectiveness and must conform to other monitoring requirements that may be imposed by the RWQCB.

The Permittee is required to submit annual reports to the appropriate RWQCB by September 15th of each year (first to be submitted in 2004), or as otherwise required by the RWQCB EO. Among other things, the Permittee shall evaluate its compliance with permit conditions, summarize the results of any monitoring performed, summarize the activities planned for the next reporting cycle, and, if necessary, propose changes to the SWMP.

Monitoring

Inspections, as a form of visual monitoring, are important to a storm water program. Inspections of storm water runoff and infrastructure (such as drop inlets, basins, and gutters) can say a lot about the effectiveness and needs of a storm water program. Through inspections, non-storm water discharges can be discovered and subsequently stopped, maintenance needs can be identified, and visual pollutants and erosion problems can be detected. Inspections of facilities are also important for public education and outreach, to ensure proper BMP implementation and maintenance, and to detect non-storm water discharges. Additionally, chemical monitoring can be used to involve the public through citizen monitoring groups, detect pollutants, identify and target pollutants of concern, illustrate water quality improvements and permit compliance, and participate in total maximum daily load development and implementation.

Monitoring environmental indicators through bio-assessments or other less technical methods may also be a key component of a program. Although it may be more challenging, it is also very valuable because ~~it's~~it is the "final product,"~~and~~ not just for a storm water program but for the broader environmental health of a community.

More specifically, the objectives of a monitoring program may include:

- Assessing compliance with this ~~Order;~~General Permit;
- Measuring and improving the effectiveness of the SWMP~~s~~;
- Assessing the chemical, physical, and biological impacts of receiving waters resulting from urban runoff;
- ~~Characterization of~~Characterizing storm water discharges;
- Identifying sources of pollutants; and

- Assessing the overall health and evaluating long-term trends in receiving water quality.

While only inspections of construction sites, as part of the Construction Site Storm Water Runoff Control Minimum Control Measure are specifically required, as elucidated above, other monitoring tasks may be ~~considered for inclusion~~appropriate in a storm water program. ~~Additionally,~~Also, the RWQCB can require additional monitoring.

Termination of Coverage

A Permittee may terminate coverage if a new operator has assumed responsibility for the regulated Small MS4, the Permittee has ceased operation of its MS4, or all discharge of runoff from the Small MS4 has been eliminated. To terminate coverage, the Permittee must submit to the RWQCB a written request for permit termination.

Reliance on a Separate Implementing Entity (SIE)

A Permittee can rely on a separate entity to implement one or more of the six Minimum Control Measures, if the separate entity can appropriately and adequately address the storm water issues of the Permittee. To do this, both entities must agree to the arrangement and the Permittee must comply with the applicable parts of the SIE's program. The arrangement is subject to the approval of the RWQCB EO.

In accordance with §122.35(a)(3), the Permittee remains responsible for compliance with its permit obligations if the SIE fails to implement the control measure(s) (or component thereof). Therefore, the entities are encouraged to enter into a legally binding agreement to minimize any uncertainty about compliance with the permit.

If the Permittee relies on an SIE to implement all six Minimum Control Measures and the SIE also has a storm water permit, the Permittee relying on the SIE must still submit an NOI, ~~fee,~~appropriate fee (if applicable), and certification of the arrangement. However, the Permittee is not required to develop or submit a SWMP or annual reports, unless requested to do so by the RWQCB EO. The arrangement is subject to the approval of the RWQCB EO.

School districts present an example of where an SIE arrangement may be ~~appropriate.~~ appropriate, either by forming an agreement with a city or with an umbrella agency, such as the County Office of Education. Because schools provide a large audience for storm water education, as part of the agreement, the two ~~parties~~entities may coordinate an education program. An individual school or a school district may agree to provide a one-hour slot for all the second and fifth grade classes during which the city would bring in its own storm water presentation. Alternatively, the school could agree to teach a lesson in conjunction with an outdoor education science project, which may also incorporate a public involvement component. ~~The school district would agree to follow theordinances of the city and train its janitorial staff to comply with the ordinances. They would refer to the city's construction documents for construction projects as well as post-construction control measures.~~ Additionally, the school and the city or

Office of Education may arrange to have the school's maintenance staff attend the ~~city's municipal~~other entity's training sessions.

~~The city may provide these services to the school or other governmental facility (customers to its system) as part of its way to reduce the discharge of pollutants through its MS4.~~

Discharges from Offsite Facilities

Some regulated Small MS4s have offsite facilities that discharge storm water. An offsite facility is a geographically non-adjacent or discontinuous site that serves, or is secondary to, the primary facility and has the same owner as the primary facility. Storm water discharges from an offsite facility must be permitted if it meets the definition of a regulated Small MS4 itself. However, the offsite facility may satisfy this permitting requirement if the SWMP of the primary facility addresses the offsite facility, such that the permitted area of the primary facility includes the offsite area.

A facility is not considered offsite if it operates independently of the other facility. In this case, two separate NOIs must be submitted, if they both meet the definition of a regulated Small MS4. ~~For example, a public university may have an offsite lab that would not be in operation if the university were closed.~~

~~Governmental~~Non-traditional MS4 Facilities

~~Governmental~~Non-traditional Small MS4s possess a number of characteristics that set them apart from their municipal counterparts. These unique characteristics might lead ~~governmental~~these MS4 operators to question either the need to implement the entire suite of ~~minimum control measures~~Minimum Control Measures or their ability to comply fully with their Phase II storm water permit. In meeting the six Minimum Control Measures, a facility's employee, student, or visitor population may serve as "the public" to target for outreach and involvement, and the facility may use policies in lieu of ordinances. Responsibility for developing a storm water program that comprises the Minimum Control ~~minimum measures~~Measures lies with the operator of the ~~governmental~~non-traditional Small MS4.

Retention of Records

The Permittee is required to retain records of all monitoring information and copies of all reports required by this General Permit for a period of at least five years from the date generated. This period may be extended by request of the SWRCB or RWQCB.

Role of the RWQCBs

The RWQCBs and their staff will oversee implementation and compliance with this General Permit. As appropriate, they will review SWMPs and reports,~~,~~ require modification to SWMPs and other submissions, impose region-specific monitoring requirements, conduct inspections,~~and~~ take enforcement actions against violators of this General Permit, and make additional

designations of regulated Small MS4s pursuant to this General Permit. They may also issue individual permits to regulated Small MS4s, and alternative general permits to categories of regulated Small MS4s. Upon issuance of such permits by an RWQCB, this General Permit shall no longer regulate the affected Small MS4(s).

The Permittee and RWQCB are encouraged to work together to accomplish the goals of the storm water program. Specifically, they can coordinate the oversight of construction and industrial sites. For example, ~~regulated Small MS4s~~Permittees are required to implement a construction program. This program must include procedures for construction site inspection and enforcement. Construction sites disturbing an acre of land or more are also subject to inspections by the RWQCB under the Statewide General Permit for the Discharge of Storm Water Associated with Construction Activities. U.S. EPA intended to provide a structure that requires permitting through the federal Clean Water Act while at the same time achieving local oversight of construction projects. A structured plan review process and field enforcement at the local level, which is also required by this General Permit, were cited in the preamble to the Phase II regulations as the most effective components of a construction program.

Similarly, as part of the illicit discharge detection and elimination program, the ~~regulated Small MS4~~Permittee may inspect facilities that are permitted by the Statewide General Permit for the Discharge of Storm Water Associated with Industrial Activity and subject to RWQCB inspections.

The Small MS4 and the RWQCB are encouraged to coordinate efforts and use each of their enforcement tools in the most effective manner. For instance, the Small MS4 may identify a construction site operator that is not in compliance with the local requirements and the Construction General Permit. The Small MS4 may establish a fee for re-inspection if a site is out of compliance. If education efforts and the inspection fee fail to bring the site into compliance, the Small MS4 may contact the RWQCB and arrange a dual inspection and start enforcement procedures under the Clean Water Act if compliance is not achieved.

Relationship Between the Small MS4 Permit and the General Permit for the Discharge of Storm Water Associated with Industrial Activities (Industrial Permit)

Some MS4 operators also have facilities that are subject to the Industrial Permit. While the intent of both of these permits is to reduce pollutants in storm water, neither permit's requirements totally encompass the other. This General Permit requires that MS4 operators address six Minimum Control Measures, while the Industrial Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) for certain "industrial" activities as well as specific visual and chemical monitoring. In the Preamble to the Phase II regulations, EPA notes that for a combination permit to be acceptable, it must contain all of the requirements for each permit. Further, "when viewed in its entirety, a combination permit, which by necessity would need to contain all elements of otherwise separate industrial and MS4 permit requirements, and require NOI information for each separate industrial activity, may have few advantages when compared to obtaining separate MS4 and industrial general

permit coverage." ~~Because this option does not offer benefit for Permittees nor the RWQCBs, a combination permit is not being made an option as part of this General Permit.~~

~~However, where~~Where the permits do overlap, one program may reference the other. More specifically, the Good Housekeeping for Municipal Operations Minimum Control Measure requires evaluation of municipal operations, some of which may be covered under the Industrial Permit. The development and implementation of the SWPPP under the Industrial Permit will likely satisfy the Good Housekeeping requirements for those industrial activities. The SWMP may incorporate by reference the appropriate SWPPP.

There may be instances where a non-traditional MS4 has, under the Industrial Permit, obtained coverage for the entire facility (rather than only those areas where industrial activities occur), and has developed a SWPPP that addresses the six Minimum Control Measures required by this General Permit. In these instances, the non-traditional Small MS4 is not required to obtain coverage under this permit. The entity should, in such cases, provide to the appropriate RWQCB documentation that its SWPPP addresses the six Minimum Control Measures.

STATE WATER RESOURCES CONTROL BOARD (SWRCB-)
WATER QUALITY ORDER NO. ~~02~~03 - XX - DWQ
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT NO. CAS00000X

WASTE DISCHARGE REQUIREMENTS (WDRs)
FOR
STORM WATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s) (GENERAL PERMIT)

The SWRCB finds that:

1. Urban runoff is a leading cause of pollution throughout California.

2. Pollutants of concern found in urban runoff include sediments, non-sediment solids, nutrients, pathogens, oxygen-demanding substances, petroleum hydrocarbons, heavy metals, floatables, polycyclic aromatic hydrocarbons (PAHs), trash, and pesticides and herbicides.

3. During urban development, two important changes occur. First, where no urban development has previously occurred, natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops, and parking lots. Natural vegetated soil can both absorb rainwater and remove pollutants providing a very effective purification process. Because pavement and concrete can neither absorb water nor remove pollutants, the natural purification characteristics of the land are lost. Second, urban development creates new pollution sources as human population density increases and brings with it proportionately higher levels of vehicle emissions, vehicle maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, trash, etc., which can be washed into the MS4. As a result of these two changes, the runoff leaving a developed urban area may be significantly greater in volume, velocity, and/or pollutant load than pre-development runoff from the same area.

4. A higher percentage of impervious area correlates to a greater pollutant loading, resulting in turbid water, nutrient enrichment, bacterial contamination, organic matter loads, toxic compounds, temperature increases, and increases of trash or debris.

5. Pollutants present in storm water can have damaging effects on both human health and aquatic ecosystems. In addition, the increased flows and volumes of storm water discharged from impervious surfaces resulting from development can significantly impact beneficial uses of aquatic ecosystems due to physical modifications of watercourses, such as bank erosion and widening of channels.

6. When water quality impacts are considered during the planning stages of a project, new development and many redevelopment projects can more efficiently incorporate measures to protect water quality.

7. On December 8, 1999, EPA promulgated regulations under authority of the Clean Water Act (CWA) §402(p)(6). These regulations require the SWRCB to issue NPDES storm water permits to operators of small municipal separate storm sewer systems (Small MS4s).

8. A municipality discharging storm water that has the potential to impact receiving water or another MS4 with a municipal storm water permit must be permitted to hold that municipality responsible for reducing pollutants in the runoff and mitigating the impact.

9. Of the Small MS4s defined by federal regulations, only "regulated Small MS4s" must obtain a permit. Title 40 ~~CFR~~of the Code of Federal Regulations (40 CFR) §122.32(a) ~~defines~~describes regulated Small MS4s as those traditional Small MS4s located within an urbanized area as determined by the latest Decennial Census by the Bureau of the Census (Attachment 1) ~~or those~~and other Small MS4s that are designated by the permitting authority in accordance with designation criteria. ~~Such designation is automatic and~~Traditional Small MS4s within urbanized areas (Attachment 1) are automatically designated and are not subject to the designation process discussed below.

10. 40 CFR §123.35(b) requires the SWRCB to develop a process, as well as criteria, to designate Small MS4s as regulated Small MS4s.

11. In developing the designation criteria, factors were chosen to include parameters that may affect water quality. The following criteria will be considered in designating ~~small MS4s~~Small MS4s operated within a city or county as regulated ~~small~~Small MS4s.

    a. High population density – High population density means an area with greater than 1,000 residents per square mile. Also to be considered in this definition is a high density created by a non-residential population, such as tourists or commuters.

    b. High growth or growth potential –If an area grew by more than 25% between 1990 and 2000, it is a high growth area. If an area anticipates a growth rate of more than 25% over a 10-year period ending prior to the end of the first permit term, it has high growth potential.

    c. Significant contributor of pollutants to an interconnected permitted MS4 – A Small MS4 is interconnected with a separately permitted MS4 if storm water that has entered the Small MS4 is allowed to flow directly into a permitted MS4. In general, if the Small MS4 discharges more than 10% of its storm water to the permitted MS4, or its discharge makes up more than 10% of the other permitted MS4's total storm water volume, it is a significant contributor of pollutants to the permitted MS4. In

specific cases, the MS4s involved or third parties may show that the 10% threshold is inappropriate for the MS4 in question.

d. Discharge to sensitive water bodies – Sensitive water bodies are receiving waters, which are a priority to protect. They include the following:

- those listed as providing or known to provide habitat for threatened or endangered species;
- those used for recreation that are subject to beach closings or health warnings; or
- those listed as impaired pursuant to Clean Water Act Section 303(d) due to constituents of concern in urban runoff (these include ~~BOD,~~biological oxygen demand (BOD), sediment, pathogens, oil and grease, and other constituents that are found in the MS4 discharge).

Additional criteria to qualify as a sensitive water body may exist and may be ~~determined~~used by the SWRCB or RWQCB on a case-by-case basis ~~along with the MS4's designation justification~~.

e. Significant contributor of pollutants to waters of the United States – Specific conditions presented by the MS4 may lead to significant pollutant loading to waters of the U.S. that are otherwise unregulated or inadequately regulated. An example of such a condition may be the presence of a large transportation industry.

Attachment 2 lists the cities and counties designated as regulated Small MS4s by the SWRCB at the time of permit adoption.

12. ~~Governmental~~Non-traditional MS4s with facilities with multiple structures often operate storm sewers that are similar ~~in framework~~ to a traditional MS4 operated by a city or county and discharge the same types of pollutants that are associated with urban runoff discharged through city and county MS4s. ~~In general, storm water structures serving~~

~~12.~~The SWRCB designates non-traditional MS4s that have storm sewer systems similar to traditional MS4s operated by a city or county and discharge into a permitted MS4 as a regulated Small MS4. In general, these facilities are public campuses (including universities, community colleges, primary schools, and other publicly owned learning institutions with campuses), military bases, and prison and hospital ~~complexes are Small MS4s that are similar to traditional storm water systems that serve cities and counties.~~ complexes. Attachment 3 lists non-traditional MS4 facilities that are designated as regulated Small MS4s. Non-traditional Small MS4 entities that are designated, but whose entire facilities are subject to the NPDES General

13. ~~Governmental Small MS4s that are located within or discharge to an urbanized area or other Small, Medium or Large permitted MS4(s) are considered regulated Small MS4s.~~

~~Attachment 3 lists governmental regulated Small MS4s.~~Permit for the Discharge of Storm Water Associated with Industrial Activities and whose Storm Water Pollution Prevention Plan (SWPPP) addresses all six Minimum Control Measures described in this General Permit, are not required to obtain coverage under this General Permit. Such entities must present documentation to the appropriate RWQCB, showing that they meet the requirements for exclusion from coverage.

14. This General Permit requires regulated Small MS4s (Permittees) to develop and implement a Storm Water Management Program (SWMP) designed to reduce the discharge of pollutants to the Maximum Extent Practicable (MEP) and to protect water quality.

15. Permittees can satisfy the requirements through effective implementation of a SWMP, which must contain Best Management Practices (BMPs) that address six minimum control measures. The SWMP must incorporate measurable goals and time schedules of implementation.

16. The MEP standard is an ever-evolving, flexible and advancing concept, which considers technical and economic feasibility. As knowledge about controlling urban runoff continues to evolve, so does that which constitutes MEP. Reducing the discharge of storm water pollutants to the MEP in order to protect beneficial uses requires review and improvement, which includes seeking new opportunities. To do this, the Permittee must conduct and document evaluation of each relevant element of its program and revise activities, control measures, BMPs, and measurable goals, as necessary to meet MEP.

17. This General Permit includes Supplemental Requirements that apply to traditional and non-traditional Small MS4s located in areas with a population of 50,000 or more or that are subject to high growth. These requirements address post-construction requirements and compliance with water quality standards. These Supplemental Requirements are similar to requirements for Medium and Large MS4s (Phase I), and are appropriate because larger Small MS4s are able to have more robust storm water programs and fast-growing Small MS4s may cause greater impacts to water quality.

18. The purpose of the annual performance review is to evaluate the SWMP's effectiveness, the implementation of the SWMP, status of measurable goals, and improvement opportunities.

~~18.~~19. To obtain authorization for storm water discharges to surface waters pursuant to this General Permit, the regulated Small MS4 must submit to the appropriate California Regional Water Quality Control Board (RWQCB), a Notice of Intent to comply with the terms of this General Permit (NOI), appropriate fee (in accordance with the NOI), and SWMP. Regulated Small MS4s relying entirely on separately permitted Separate Implementing Entities (SIE) to implement their entire programs are not required to submit a SWMP. Attachment ~~6~~7 gives contact information for each RWQCB.

20. Each Permittee is individually responsible for adoption and enforcement of ordinances and/or policies, implementation of identified control measures/BMPs needed to prevent or reduce pollutants in storm water, and for allocating funds for the capital, operation and maintenance, and enforcement expenditures necessary to implement and enforce such control measures/BMPs within its jurisdiction. Enforcement actions concerning this General Permit will be pursued only against the individual Permittee responsible for specific violations of this General Permit.

21. In accordance with 40 CFR §122.28(b)(3), a RWQCB may issue an individual MS4 NPDES Permit to a regulated Small MS4 otherwise subject to this General Permit, or adopt an alternative general permit that covers storm water discharges regulated by this General Permit. The applicability of this General Permit is automatically terminated on the effective date of the individual permit or the date of approval for coverage under the alternative general permit.

22. Certain BMPs implemented or required by Permittees for urban runoff management may create a habitat for vectors (e.g., mosquitoes and rodents) if not properly designed or maintained. Close collaboration and cooperative effort between the Permittees, local vector control agencies, RWQCB staff, and the State Department of Health Services is necessary to identify and implement appropriate vector control measures that minimize potential nuisances and public health impacts resulting from vector breeding.

23. This NPDES Permit is consistent with the anti-degradation policies of 40 CFR §131.12, SWRCB Resolution 68-16, and the RWQCBs' individual Basin Plans. Implementing storm water quality programs that address the six Minimum Control Measures in previously unregulated areas will decrease the pollutant loading to the receiving waters and improve water quality.

~~23.~~24. Following public notice in accordance with State and federal laws and regulations, the SWRCB, in a public ~~meeting on _____~~hearing on December 2, 2002 heard and considered all comments. The SWRCB has prepared written responses to all significant comments.

~~24.~~25. This action to adopt an NPDES permit is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21100, et seq.) in accordance with ~~section 13389~~§13389 of the Porter-Cologne Water Quality Control Act (Division 7 of the California Water Code).

~~25.~~26. This NPDES permit is in compliance with ~~Section~~Part 402 of the CWA and shall take effect ~~upon adoption by the SWRCB provided the Regional Administrator of the U.S. EPA has no objection. If the U.S. EPA Regional Administrator objects to its issuance, the General Permit shall not become effective until such objection~~ 100 days after adoption by the SWRCB. Once in effect, the RWQCBs shall enforce the provisions herein.

~~25.is withdrawn.~~

IT IS HEREBY ORDERED that operators of Small MS4s subject to this General Permit shall comply with the following:

A. APPLICATION REQUIREMENTS

1. Deadlines for ~~Notification~~Application

a. By March 10, 2003, all regulated Small MS4s automatically designated (see ~~Attachments 1 and 3),~~Attachment 1), must either apply for coverage under this General Permit (either individually or as a co-permittee), submit an application for an individual or alternative general Small MS4 permit (if applicable), or submit a joint application for modification of an existing large or medium MS4 permit (40 CFR §122.33(c)(1)).

b. Within 180 days of notice, ~~a~~traditional Small MS4s designated according to Finding 11 (see Attachment 2), must either apply for coverage under this General Permit (either individually or as a co-permittee), submit an application for an individual or alternative general Small MS4 permit, or submit a joint application for modification of an existing large or medium MS4 permit (40 CFR §122.33(c)(2)). Written notices will be sent to designated parties subsequent to adoption of this General Permit.

c. ~~10 above (see Attachments 2 and~~Within 365 days of notice, non-traditional Small MS4s designated according to Finding 13 (see Attachment 3), must either apply for coverage under this General Permit (either individually or as a co-permittee), submit an application for an individual or alternative general Small MS4 permit, or submit a joint application for modification of an existing large or medium MS4 permit (40 CFR §122.33(c)(2)). Written notices will be sent to designated parties subsequent to adoption of this General Permit.

2. General Permit Application

To obtain coverage under this General Permit, submit to the appropriate RWQCB a completed Notice of Intent (NOI) (Attachment ~~5),~~6), a SWMP, and appropriate fee. The SWMP shall meet all the requirements of Section D of this General Permit. Regulated Small MS4s relying entirely on Separate Implementing Entities pursuant to Provision ~~D. 6~~D.6 and permitted under the NPDES program are not required to submit a SWMP.

B. DISCHARGE PROHIBITIONS

1. Discharges of waste that are prohibited by Statewide Water Quality Control Plans or applicable Regional Water Quality Control Plans (Basin Plans) are prohibited.

2. Discharges from the MS4s regulated under this permit that cause or threaten to cause nuisance are prohibited.

3. Discharges of material other than storm water to waters of the United States or another permitted MS4 ~~are~~must be effectively prohibited, except as allowed under Provision D.2.c, or as otherwise authorized by a separate NPDES permit.

C. EFFLUENT LIMITATIONS

~~1.~~

1. Permittees must implement BMPs that reduce pollutants in storm water to the technology-based standard of MEP. ~~In accordance with 40 CFR §122.44(k)(2), the inclusion of BMPs in lieu of numeric effluent limitations is appropriate in storm water permits.~~

2. Storm water discharges regulated by this General Permit shall not contain a hazardous substance in amounts equal to or in excess of a reportable quantity listed in 40 CFR Part 117 or 40 CFR Part 302.

D. STORM WATER MANAGEMENT PROGRAM REQUIREMENTS

The Permittee shall maintain, implement, and enforce an effective SWMP, and develop adequate legal authority to implement and enforce the SWMP, designed to reduce the discharge of pollutants from the regulated Small MS4 to the MEP and to protect water quality. The SWMP shall serve as the framework for identification, assignment, and implementation of control measures/BMPs. The Permittee shall implement the SWMP, and shall subsequently demonstrate its effectiveness and provide for necessary and appropriate revisions, modifications, and improvements to reduce pollutants in storm water discharges to the MEP.

The SWMP shall be fully implemented by the expiration of this General Permit, with reasonable progress made towards implementation throughout the term of the General Permit. Existing programs that have storm water quality benefits can be identified in the SWMP and be a part of a Permittee's storm water program.

The SWMP shall be revised to incorporate any new or modified BMPs or measurable goals developed through the Permittee's annual reporting process. The Permittee shall incorporate changes required by or acceptable to the RWQCB ~~EO~~Executive Officer (EO) into applicable annual revisions to the SWMP and adhere to its implementation.

1. The Permittee shall maintain, implement, and enforce an effective SWMP designed to reduce the discharge of pollutants from the regulated Small MS4 to the MEP and to protect water quality.

2. The SWMP must describe the BMPs, and associated measurable goals, that will fulfill the requirements of the following six Minimum Control Measures.

   a. **Public Education and Outreach on Storm Water Impacts**
   The Permittee must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff. For ~~State and~~ non-~~federal~~traditional regulated Small ~~MS4, a facility's employee~~MS4s, the employee/user population may serve as "the public" to target for outreach and involvement.

   ~~State and federal facilities~~Non-traditional Small MS4s that discharge into medium and large MS4 may integrate public education and outreach program with the existing MS4 public education and outreach programs.

   b. **Public Involvement/Participation**
   The Permittee must at a minimum comply with State and local public notice requirements when implementing a public involvement/participation program.

   c. **Illicit Discharge Detection and Elimination**
   The Permittee must:

      1) Develop, implement and enforce a program to detect and eliminate illicit discharges (as defined at 40 CFR §122.26(b)(2)) into the regulated Small MS4;

      2) Develop, if not already completed, a storm sewer system map, showing the location of all outfalls and the names and locations of all waters of the U.S. that receive discharges from those outfalls;

      3) To the extent allowable under State or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges into the MS4 and implement appropriate enforcement procedures and actions;

      4) Develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to the system that are not authorized by a separate NPDES permit;

5) Inform public employees, businesses, and the general public of the hazards that are generally associated with illegal discharges and improper disposal of waste; and

6) Address the following categories of non-storm water discharges or flows (i.e., authorized non-storm water discharges) only if you identify them as significant contributors of pollutants to the Small MS4:

1. water line flushing;
2. landscape irrigation;
3. diverted stream flows;
4. rising ground waters;
5. uncontaminated ground water infiltration (as defined at 40 CFR §35.2005(20)) to separate storm sewers;
6. uncontaminated pumped ground water;
7. discharges from potable water sources;
8. foundation drains;
9. air conditioning condensation;
10. irrigation water;
11. springs;
12. water from crawl space pumps;
13. footing drains;
14. lawn watering;
15. individual residential car washing;
16. flows from riparian habitats and wetlands; and
17. dechlorinated swimming pool discharges.

Discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the U.S.

If a RWQCB EO determines that any individual or class of non-storm water discharge(s) listed above may be a significant source of pollutants to waters of the United States or physically interconnected MS4, or poses a threat to water quality standards (beneficial uses), the RWQCB EO may require the appropriate ~~regulated Small MS4(s)~~Permittee(s) to monitor and submit a report, and to implement BMPs on the discharge.

d. **Construction Site Storm Water Runoff Control**

The Permittee must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your Small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity

disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. ~~If the RWQCB waives requirements for storm water discharges associated with small construction activity in accordance with§122.26(b)(15)(i), you are not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites.~~ Your program must include the development and implementation of, at a minimum:

1) An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions, or other effective mechanisms, to ensure compliance, to the extent allowable under State, or local law;

2) Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

3) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

4) Procedures for site plan review which incorporate consideration of potential water quality impacts;

5) Procedures for receipt and consideration of information submitted by the public; and

6) Procedures for site inspection and enforcement of control measures.

e. **Post-Construction Storm Water Management in New Development and Redevelopment**

The Permittee must:

1) Develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the Small MS4 by ensuring that controls are in place that would prevent or minimize water quality impacts;

2) Develop and implement strategies, which include a combination of structural and/or non-structural BMPs appropriate for your community;

3) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects

to the extent allowable under State or local law For those Small MS4s described in Supplemental Provision E below, the requirements must at least include the design ~~law;~~standards contained in Attachment 4 of this General Permit; and

4) Ensure adequate long-term operation and maintenance of BMPs.

The permit does not require redesign of school facilities that have been submitted to the Department of General Services, Division of the State Architect before adoption of the permit and which receive final approval from the Department of Education by December 31, 2004

f. **Pollution Prevention/Good Housekeeping for Municipal Operations**
The Permittee must:

1) develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations; and

2) Using training materials that are available from EPA, the State, or other organizations, your program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet building maintenance, new construction and land disturbances, and storm water system maintenance.

3. The SWMP must identify the measurable goals for each of the BMPs, including, as appropriate, the months and years for scheduled actions, including interim milestones and the frequency of the action.

4. The SWMP must identify the person or persons who will implement or coordinate the SWMP, as well as each Minimum Control Measure.

5. Termination of coverage

A Permittee may terminate coverage if a new operator has assumed responsibility for the MS4, the Permittee has ceased operation of the MS4 or has eliminated discharges from the MS4. To terminate coverage, the Permittee must submit a written request to the RWQCB.

6. Reliance On a Separate Implementing Entity (SIE)

The Permittee may rely on a SIE to satisfy one or more of the permit obligations, if the separate entity can appropriately and adequately address the storm water issues of the Permittee. The Permittee must describe the arrangement in the SWMP and the arrangement is subject to the approval of the RWQCB EO. The

other entity must agree to implement the control measure(s), or components thereof, to achieve compliance with the General Permit. The Permittee remains responsible for compliance with this General Permit if the SIE fails to implement the control measure(s).

If the Permittee relies on an SIE to implement all six Minimum Control Measures and the SIE also has a storm water permit issued by the SWRCB or RWQCB, the Permittee relying on the SIE must still submit an NOI, ~~fee,~~appropriate fee (if applicable), and certification of the ~~arrangement., the~~arrangement. The Permittee must note this fact in the NOI but is not required to maintain a SWMP nor submit annual reports.

~~Governmental~~Non-traditional regulated ~~small~~Small MS4s (campuses, military bases, prison and hospital complexes) are encouraged to work with other entities in implementing their SWMP.

7. Outfalls not identified in the SWMP, but constructed within the permitted area during the term of this ~~Order~~General Permit to receiving waters identified in the NOI, shall not be considered a material change in character, location, or volume of the permitted discharge, and shall be allowed under the terms of this General Permit without permit application or permit modification, provided ~~at least 90 days prior to construction of the outfall the Permittee submits a report that includes:~~that the following information be provided in the subsequent annual report:

   a. Receiving water name;

   b. Storm sewer system map of added area;

   ~~c.Drainage area (in acres);~~

   ~~d.Land use designation; and~~

   c. Certification that the SWMP shall be amended to include the drainage area.

E. SUPPLEMENTAL PROVISIONS

Those regulated conventional and non-conventional Small MS4s serving a population over 50,000 or that are subject to high growth (at least 25% over ten years) must comply with the requirements in Attachment 4 of this General Permit.

F. REPORTING REQUIREMENTS AND MONITORING

1. Reporting

The Permittee must submit annual reports to the appropriate RWQCB by September 15th of each year (first to be submitted in 2004), or as otherwise required by the RWQCB EO, unless exempted under Provision D.6. The report shall summarize the activities performed throughout the reporting period (July 1 through June 30) and must include:

a. The status of compliance with permit conditions;

b. An assessment of the appropriateness and effectiveness of the identified BMPs;

c. Status of the identified measurable goals;

d. Results of information collected and analyzed, including monitoring data, if any, during the reporting period;

e. A summary of the storm water activities the Permittee plans to undertake during the next reporting cycle;

f. Any proposed change(s) to the SWMP along with a justification of why the change(s) are necessary; and

g. A change in the person or persons implementing and coordinating the SWMP.

2. The RWQCB may impose additional monitoring requirements, which may include a reporting component. RWQCBs may adopt such requirements on an individual or group basis.

3. Recordkeeping

The Permittee must keep records required by this permit for at least five years or the duration of the General Permit if continued. The RWQCB EO may specify a longer time for record retention. The Permittee must submit the records to the RWQCB EO upon request. The Permittee must make the records, including the permit and SWMP, available to the public during regular business hours.

G. REGIONAL WATER QUALITY CONTROL BOARD AUTHORITIES

The RWQCBs and their staff shall oversee this General Permit. Oversight of this General Permit may include, but is not limited to, reviewing SWMPs and reports, requiring modification to SWMPs and other submissions, imposing region-specific monitoring requirements, conducting inspections, ~~and~~ taking enforcement actions against

violators of this General Permit, and making additional designations of regulated Small MS4s pursuant with the criteria described in this General Permit and Fact Sheet. The RWQCBs may also issue individual permits to regulated Small MS4s, and alternative general permits to categories of regulated Small MS4s. Upon issuance of such permits by an RWQCB, this General Permit shall no longer regulate the affected Small MS4(s).

H. STANDARD PROVISIONS

1. General Authority

Three of the minimum control measures (illicit discharge detection and elimination, and the two construction-related measures) require enforceable controls on third party activities to ensure successful implementation of the measure. Some ~~Federal and State~~non-traditional operators, however, may not have the necessary legal regulatory authority to adopt these enforceable controls. As in the case of local governments that lack such authority, ~~State and Federal~~non-traditional MS4s are expected to utilize the authority they do possess and to seek cooperative arrangements.

2. Duty to Comply

The Permittee must comply with all of the conditions of this General Permit. Any permit noncompliance constitutes a violation of the CWA and the Porter-Cologne Water Quality Control Act (Porter-Cologne) and is grounds for enforcement action and/or removal from General Permit coverage. In the event that the Permittee is removed from coverage under the General Permit, the Permittee will be required to seek coverage under an individual or alternative general permit.

3. General Permit Actions

This General Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a General Permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not nullify any General Permit condition.

If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under §307(a) of the CWA for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this General Permit, this General Permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and Permittee so notified.

4. Noncompliance Reporting

~~The discharger shall report any noncompliance with this Order or any noncompliance that may endanger health or the environment. Any information shall be provided orally to the RWQCB/SWRCB~~Permittees who cannot certify compliance and/or who have had other instances of noncompliance shall notify the appropriate RWQCB within 30 days. Instances of noncompliance resulting in emergencies (i.e. that endanger human health or the environment) shall be reported orally to the RWQCB within 24 hours from the time the discharger becomes aware of the ~~circumstances. A written description of any~~circumstance and in writing to the RWQCB within five days of the occurrence. The notification shall identify the noncompliance event and an initial assessment of any impact caused by the event, describe the actions necessary to achieve compliance, and include ~~noncompliance shall be submitted to the RWQCB/SWRCB within **five days** of such an occurrence and contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The following shall be included as information which must be reported within 24 hours under this reporting requirement:~~

~~a.Any unanticipated bypass which exceeds any effluent limitation in this Order;~~

~~b.Any discharge of treated or untreated wastewater, including reclaimed or recycled wastewater, resulting from pipeline breaks, obstruction, surcharge or any other circumstance;~~

~~c.Any discharge or spill of raw or potable water not authorized by this order or resulting from pipeline breaks, obstruction, surcharge or any other circumstance;~~

~~d.Any upset which exceeds any effluent limitation in this Order;~~

~~e.Any spill or discharge of non-storm water not authorized by this Order (non-storm water discharges not prohibited by the Permittee pursuant to Section D.2.c. of this Order need not be reported under this section); and~~

~~f.Any violation of this Order.~~a time schedule indicating when compliance will be achieved. The time schedule and corrective measures are subject to modification by the RWQCB EO.

5. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this General Permit.

6. Duty to Mitigate

   The Permittee shall take all responsible steps to minimize or prevent any discharge in violation of this General Permit that has a reasonable likelihood of adversely affecting human health or the environment.

7. Proper Operation and Maintenance

   The Permittee shall at all times properly operate and maintain any facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this General Permit and with the requirements of the SWMP. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance may require the operation of backup or auxiliary facilities or similar systems installed by the Permittee when necessary to achieve compliance with the conditions of this General Permit.

8. Property Rights

   This General Permit does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor does it authorize any infringement of federal, State, or local laws or regulations.

9. Duty to Provide Information

   The Permittee shall furnish the RWQCB, SWRCB, or U.S. EPA, during normal business hours, any requested information to determine compliance with this General Permit. The Permittee shall also furnish, upon request, copies of records required to be kept by this General Permit.

10. Inspection and Entry

    The Permittee shall allow the RWQCB, SWRCB, U.S. EPA, or an authorized representative of the RWQCB, SWRCB, or U.S. EPA, upon the presentation of credentials and other documents as may be required by law, to:

    a. ~~a.~~ Enter upon the Permittee's premises during normal business hours where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. ~~b.~~ Access and copy, during normal business hours, any records that must be kept under the conditions of this General Permit within a reasonable time from notification;

c. Inspect during normal business hours any municipal facilities; and

d. Sample or monitor at reasonable times for the purpose of assuring General Permit compliance.

11. Signatory Requirements

All NOIs, SWMPs, certifications, reports, or other information prepared in accordance with this General Permit submitted to the SWRCB or RWQCB shall be signed by either a principal executive officer, ranking elected official, or duly authorized representative. The principal executive officer of a Federal agency includes the chief executive officer of the agency or the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of U.S. EPA).

12. Certification

Any person signing documents under Section G.9 above, shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete.

I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

13. Anticipated Noncompliance

The Permittee will give advance notice to the RWQCB and local storm water management agency of any planned changes in the regulated Small MS4 activity that may result in noncompliance with General Permit requirements.

14. Penalties for Falsification of Reports

Section 309(c)(4) of the CWA provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this General Permit, including reports of compliance or noncompliance shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than two years or by both.

15. Penalties for Violations of Permit Conditions

    a. Part 309 of the CWA provides significant penalties for any person who violates a permit condition implementing Parts 301, 302, 306, 307, 308, 318, or 405 of the CWA or any permit condition or limitation implementing any such section in a permit issued under Part 402. Any person who violates any permit condition of this General Permit is subject to a civil penalty not to exceed $27,500 per calendar day of such violation, as well as any other appropriate sanction provided by Part 309 of the CWA.

    b. Porter-Cologne also provides for administrative, civil, and criminal penalties, which in some cases are greater than those under the CWA.

16. Oil and Hazardous Substance Liability

    Nothing in this General Permit shall be construed to preclude the institution of any legal action against the Permittee or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject to under Part 311 of the CWA.

17. Severability

    The provisions of this General Permit are severable; and, if any provision of this General Permit or the application of any provision of this General Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this General Permit shall not be affected thereby.

18. Reopener Clause

    This General Permit may be modified, revoked and reissued, or terminated for cause due to promulgation of amended regulations, or otherwise in accordance with 40 CFR sections 122.62, 122.63, 122.64, and 124.5.

19. Availability

    A copy of this General Permit and the SWMP shall be made available for public review.

20. Transfers

    This General Permit is not transferable. A Permittee must submit written notification to the appropriate RWQCB to terminate coverage of this permit.

21. Continuation of Expired Permit

    This General Permit expires five years from the date of adoption. This General Permit continues in force and in effect until a new General Permit is issued or the SWRCB rescinds this General Permit. Only those Small MS4s authorized to discharge under the expiring General Permit are covered by the continued General Permit.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the SWRCB held on_____.

AYE:

NO:

ABSENT:

ABSTAIN

_____

Maureen ~~Marche~~Marché
Administrative Assistant to the Board